

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

Thomas G. Pierce, #201290, ) Case No.: 2:20-cv-02070-JD-MGB  
)  
Plaintiff, )  
)  
vs. )  
)  
South Carolina Department of Corrections, )  
and Bryan Stirling, )  
)  
Defendants. )  
)

This matter is before the Court with the Report and Recommendation of United States Magistrate Mary Gordon Baker (“Report and Recommendation”), made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2) of the District of South Carolina.<sup>1</sup> Thomas G. Pierce, #201290, (“Pierce” or “Plaintiff”), proceeding *pro se*, seeks to have his sentence remanded to house arrest and home confinement based on alleged civil rights violations pursuant to 42 U.S.C. § 1983 while a detainee at Lee Correctional Institution (“LCI”).

Pierce filed this action against South Carolina Department of Corrections and Bryan Stirling (collectively “Defendants”) on June 1, 2020, seeking a Medical Furlough, vulnerability due to concerns of COVID-19. (DE 1.) Plaintiff’s Complaint seeks to have his sentence remanded to house arrest and home confinement. (DE 1.)

The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

On August 11, 2020, the Court issued a Proper Form Order informing Plaintiff that he had twenty-one (21) days to bring his case into proper form. (DE 6.) Plaintiff filed a Motion for Extension of Time on August 21, 2020. (DE 9.) The Motion was granted allowing Plaintiff through September 15, 2020, to submit a motion to proceed in forma pauperis (with a corresponding financial certificate) or pay the filing fee. (DE 10.) On September 17, 2020, Plaintiff filed a Second Motion for Extension of Time. (DE 12.) Plaintiff's Motion was granted on September 19, 2020, giving him yet another month to file the Form AO 240 and financial certificate and warning Plaintiff that "absent extraordinary circumstances, no further extensions shall be granted." (DE 13.) Plaintiff filed his application to proceed in forma pauperis on September 21, 2020 (DE 15), claiming that he did not have sufficient funds to prepay the filing fee in this case. Plaintiff did not, however, provide the required financial certificate from his correctional institution. In his cover letter, Plaintiff stated that he "tried [his] best to get the financial certificate," but was unable to do so. (DE 15-1.) In light of Plaintiff's *pro se* status and in an abundance of caution, Plaintiff was granted "one final opportunity to submit his financial certificate and bring this case into proper form." Plaintiff was provided with another blank financial certificate and was given an additional twenty-one (21) days to complete and submit the form. (DE 19, p. 32.) To date, Plaintiff has not filed a completed financial certificate or, in the alternative, paid the outstanding filing fee.

On March 17, 2021, the Magistrate Judge issued a Report and Recommendation, recommending that this action be summarily dismissed, without prejudice and without issuance and service of process. (DE 21.)

The Plaintiff filed no objections to the Report and Recommendation. In the absence of objections to the Report and Recommendation, this Court is not required to give any explanation

for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983). The Court must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

After a thorough review of the Report and Recommendation and the record in this case, the Court adopts the Report and Recommendation (DE 21) and incorporates it herein.

It is, therefore, **ORDERED** that Plaintiff’s Complaint is dismissed, without prejudice and without issuance and service of process.

**IT IS SO ORDERED.**



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Joseph Dawson, III  
United States District Judge

Greenville, South Carolina  
July 23, 2021

#### **NOTICE OF RIGHT TO APPEAL**

Plaintiff is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.